IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 619 OF 2004

The Commissioner of Income Tax .... Appellant

Vs.

M/s Radhakrishna Ramnarain Ltd. .... Respondents

Mr. A.D. Kango for the Appellant.

CORAM : F.I. REBELLO, &
J.P. DEVADHAR, JJ.

DATE : 14TH AUGUST, 2007

P.C.

1) The question of law as prayed on behalf of the Revenue is as under :

> "On the facts and in the circumstances of the case and in law whether the onus of establishing nexus between the borrowings and the interest free advances given is on the assessee to establish and not on the department?"

2) From the above order of Tribunal, we find that for the year 1982-1983, dis-allowances has not been challenged by Revenue. The Tribunal also

noted that the amounts advanced were the same except for additional sum of Rs.90,000/-.

3) Once the Assessing Officer in the year 1982- 1983 have made dis-allowances in that year and revenue has not challenged the same, in our opinion it was not open to the Revenue for the subsisting years to have acted otherwise. Considering the above in our opinion, the question of law for the reasons set out by the Tribunal would not arise. Hence, the appeal is dismissed.

(J.P. DEVADHAR, J.) **(F.I. REBELLO, J.)**